

Appl. No. 10/826,979
Atty. Docket No. 2003B050A
Amdmt. dated January 30, 2006
Reply to Office Action of September 28, 2005

REMARKS/ARGUMENTS

This reply is in response to the Office Action dated September 28, 2005. Claims 1-208 are pending in the application. Claims 135-169 have been withdrawn by the Examiner for being drawn to a non-elected group. Claims 1-134 and 170-208 stand rejected. Applicant has amended the base claims to more clearly recite aspects of the invention. Entry of the foregoing amendment and reconsideration of the claims is respectfully requested.

Regarding the withdrawn claims 135-169, Applicant submits that base 135 is linked to base claim 43 because claim 135 is drawn to the method of making the product of claim 43. Therefore, claim 135 should be examined along with claim 43. Alternatively, the restriction should be withdrawn upon the finding of allowance of claim 43, and claim 135 should be allowed as well as those dependent therefrom. See MPEP § 809.03. For these reasons, consideration of base claim 135 and those dependent therefrom is respectfully requested.

Claims 2-3, 6, 9-10, 16-17, 19-21, 24, 44-46, 48, 51-52, 58-59, 61-63, 66, 90-92, 94, 97, 104-105, 107-109, 112, 172-174, 176, 179-180, 186-187, 189-191 and 194 stand rejected under 35 U.S.C. § 112, first paragraph. Further, Claims 2-3, 6, 9-10, 16-17, 19-21, 24, 44-46, 48, 51-52, 58-59, 61-63, 66, 90-92, 94, 97, 104-105, 107-109, 112, 172-174, 176, 179-180, 186-187, 189-191, and 194 stand rejected under 35 U.S.C. § 112, second paragraph. The Examiner states that the claim recitations "R' is a bond or a C₁ to C₁₀ hydrocarbon" and "R' is independently a bond or a C₁ to C₁₀ hydrocarbon" are unclear. The Examiner states "The concept of a bond in between 2 single bonds between the C and N atoms or between the C and C atoms as presented in the presently claimed structures is scientifically impossible."

Applicant respectfully traverses the rejection. When read in light of the specification and commonly accepted chemical practices, the phrases "R' is a bond or a C₁ to C₁₀ hydrocarbon" and "R' is independently a bond or a C₁ to C₁₀ hydrocarbon" clearly indicate that R' represents a C₁ to C₁₀ hydrocarbon or a continuation of the bond between the adjoining atoms. Such structural nomenclature has been adopted for several years in the chemical arts and patent literature. See, for example, U.S. Pat. No. 4,816,551 at claim 1, U.S. Pat. No. 5,813,466 at col. 5, lines 21-22, U.S. Pat. No. 5,877,241 at claim 1, U.S. Pat. No. 6,562,978 at abstract and col. 2, l. 34-36, and

Appl. No. 10/826,979
Atty. Docket No. 2003B050A
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U.S. Pat. No. 6,863,782 at claim 13. Furthermore, a bond in between two single bonds is scientifically impossible; therefore, one of ordinary skill in the art would know that the limitation "R' is a bond" means a continuation of the bond between the adjoining atoms, such as a bond between the adjoining C atoms or between the adjoining C and N atoms, as stated by the Examiner. Therefore, Applicant submits that the claims meet the enablement and written description requirements of 35 U.S.C. § 112 for at least these reasons. Withdrawal of the rejection is respectfully requested.

Claims 1-134 and 170-208 are provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-25 and 47-60 of copending Application No. 10/469,072. Further, claims 1-134 and 170-208 are provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-42 and 64-81 of copending Application No. 10/472,871.

Applicant is amenable to a terminal disclaimer to obviate these double patenting rejections. However, the rejections are provisional because no conflicting claims have been allowed and/or issued. Therefore, Applicant elects to postpone the submission of a terminal disclaimer until allowable subject matter has been identified.

Claims 1, 14-43, 56-89, 102-134, 170-172 and 184-208 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Domine et al. (WO 02/078953). Applicant has amended the base claims, obviating this rejection. Withdrawal of the rejection is respectfully requested.

Claims 2-13, 44-55, 90-101, and 172-183 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Domine et al. (WO 02/078953) as applied above to claims 1, 43, 88, and 170, and further in view of Iovine et al. (US 4,948,822; "Iovine"). The Examiner states that Domine does not teach a polymer including an amine-containing monomer or an epoxy-containing monomer. The Examiner then states that "Iovine discloses a laminating adhesive comprising an acrylic acid alkyl or hydroxyalkyl ester monomer, glycidyl methacrylate, or an amine-containing copolymerizable comonomer. Iovine further teaches that the adhesive exhibits bond strength, and increased water and humidity resistance." The Examiner, therefore, asserts that it would have been obvious "to have employed the adhesive comprising a copolymer of and acrylic acid and glycidyl methacrylate or an amine-containing comonomer, as taught by Iovine, in

Appl. No. 10/826,979
Atty. Docket No. 2003B050A
Amdmt. dated January 30, 2006
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the laminate of Domine, for the purposes of enhancing bond strength, and water and humidity resistance." The Examiner further states, "It has also been within the skill in the art that glycidyl (meth)acrylate and amines are conventional hardeners commonly used in the art. Thus, copolymer having glycidyl and/or amine units would also have higher abrasion resistance."

Applicant respectfully traverses the rejection on grounds that a combination of the references does not teach, show, or suggest the claimed invention. As stated by the Examiner, Domine does not disclose a polymer including an amine-containing monomer or an epoxy-containing monomer, as recited in the claims. Iovine discloses laminating adhesives that incorporate acrylic polymer emulsions prepared by a "core-shell" multi-stage polymerization process." See Iovine at Abstract; col. 2, ll. 22-31; and col. 3, ll. 37-48. Iovine further teaches applying the aqueous phase adhesives (polymer emulsions) to a film to form a laminate (i.e. not co-extruded). Id. at col. 6, ll. 22-37 and the Examples. Accordingly, Iovine does not teach, show, or suggest coextrudable tie resins as required in the claims. As such, one of ordinary skill in the art would not look to Iovine for teachings or inspirations for coextrudable tie resins. Therefore, a combination of Iovine and Domine does not teach, show, or suggest the claimed invention. Withdrawal of the rejection and allowance of the claims is respectfully requested.

Furthermore, regarding the Examiner's statement: "It has also been within the skill in the art that glycidyl (meth)acrylate and amines are conventional hardeners commonly used in the art. Thus, copolymer having glycidyl and/or amine units would also have higher abrasion resistance," Applicant disagrees and kindly requests the Examiner to withdraw such a conclusory allegation or prove its truthfulness with a teaching from the prior art. The Examiner is reminded that legal conclusions and impermissible hindsight may not provide a proper basis to support a rejection based on *prima facie* obviousness. In any event, a combination of Iovine and Domine does not teach, show, or suggest the claimed invention for the reasons stated above. Therefore, withdrawal of the rejection is kindly requested.

Claims 5-13, 28-35, 47-56, 70-77, 93-101, 116-123, 175-183, 198-205 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Domine et al. (WO 02/078953; "Domine") as applied above to claims 1, 43, 88, and 170, and further in view of Kojima et al. (US 4,654,255; "Kojima"). The Examiner states that Domine does not disclose an epoxy-containing

Appl. No. 10/826,979
Atty. Docket No. 2003B050A
Amdmt. dated January 30, 2006
Reply to Office Action of September 28, 2005

monomer. The Examiner then states that Kojima discloses an adhesive "comprising epoxy-containing olefin polymers that are the same as recited in the instant claims such as glycidyl acrylate." The Examiner, therefore, asserts that it would have been obvious to "have employed the adhesive comprising a copolymer of an olefin and glycidyl methacrylate, as taught by Kojima, in the adhesive of Domine, for the purpose of enhancing interlaminar bond strength between layers in laminates."

Applicant respectfully traverses the rejection on grounds that a combination of the references does not teach, show, or suggest the claimed invention. As stated by the Examiner, Domine does not disclose an epoxy-containing monomer as claimed. Kojima discloses an epoxy-containing olefin copolymer having an acid monomer where the acid is grafted to the epoxy-containing olefin polymer in the presence of a radical generator. Kojima at Abstract and col. 3, ll. 6-63. The copolymers of Kojima are graft reacted at 100°C-300°C, the temperature range of melt processing. Id. at col. 4, lines 50-58. It is unlikely Kojima's copolymers will flow at those reaction temperatures (100°C-300°C). The reason for this is the copolymers' high bond strengths, as reported in Table 1 of the examples. See Kojima at examples. Therefore, the copolymers described in Kojima are not coextrudable because the copolymers are not melt processable. As such, the copolymers of Kojima "are applicable as a solution in solvent, or by a powder coating method" (i.e. not coextrudable), as stated at col. 8, ll. 37-40, not by coextrusion. Therefore, one of ordinary skill in the art would not look to Kojima for teachings or inspirations for coextrudable tie resins. Accordingly, a combination of Domine and Kojima does not teach, show, or suggest the claimed invention. Withdrawal of the rejection and allowance of the claims is respectfully requested.

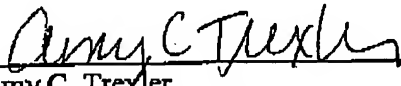
Appl. No. 10/826,979
Atty. Docket No. 2003B050A
Amdmt. dated January 30, 2006
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CONCLUSION

Having addressed all issues set out in the office action, Applicant respectfully submits that the pending claims are now in condition for allowance. Applicant invites the Examiner to telephone the undersigned attorney if there are any issues outstanding which have not been addressed to the Examiner's satisfaction.

Respectfully submitted,

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